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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES A. NEWBOLD, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THOMAS LACEY, JEFFREY SMITH,
RICHARD NOLING, DAVE FULLER,
DOUGLAS BARNETT, MITCHELL
TUCHMAN, EDWARD TERINO,
KENNETH TRAUB, PATRICK LITTLE,
PHOENIX TECHNOLOGIES LTD.,
PHARAOH ACQUISITION CORP. and
PHARAOH MERGER SUB CORP.,

Defendants.

Case No. 10-cv-04271-CW

**STIPULATION AND ORDER
FOR DISMISSAL WITHOUT
PREJUDICE**

Class Action

STIPULATION

WHEREAS, Plaintiff wishes to dismiss this action without prejudice, and

WHEREAS, all Defendants are willing to stipulate to the dismissal of the action without prejudice, and

WHEREAS, no consideration is being given by Defendants to Plaintiff for said dismissal,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between all parties to this action, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), that the action shall be dismissed without prejudice, with each party to bear its own costs, expenses and attorneys' fees.

IT IS SO STIPULATED.

Dated: December 29, 2010

BRAMSON, PLUTZIK, MAHLER &
BIRKHAEUSER, LLP

/s/
Alan R. Plutzik

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Attorneys for Plaintiff

DATED: December 29, 2010

WILSON SONSINI GOODRICH & ROSATI

/s/
Boris Feldman

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Attorneys for Defendants Thomas Lacey, Jeffrey
Smith, Richard Noling, Dave Fuller, Douglas Barnett,
Mitchell Tuchman, Edward Terino, Kenneth Traub,
Patrick Little and Phoenix Technologies Ltd.

1 DATED: December 29, 2010

LATHAM & WATKINS LLP

3 /s/

Patrick E. Gibbs

4 Patrick E. Gibbs (Bar No. 183174)
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Attorneys for Defendants Pharaoh Acquisition Corp.
and Pharaoh Merger Sub Corp.

10 **Attestation Pursuant To General Order 45**

11 I, Alan R. Plutzik, attest that concurrence in the filing of this document has been obtained
12 from the other signatories. I declare under penalty of perjury under the laws of the United States
13 that the foregoing is true and correct. Executed this 29th day of December, 2010 at Walnut Creek,
14 California.

16 /s/ Alan R. Plutzik

17 **ORDER**

18 Pursuant to Stipulation, IT IS SO ORDERED.

20 Dated: 1/3/2011

21 
United States District Judge